

June 2001

WEST VIRGINIA INFORMATIONAL LETTER

NO. 130

West Virginia Code Section 33-6-31f will become effective on July 13, 2001. This statute requires that, separate and apart from any mandated offer described in West Virginia Code Section 33-6-31d, optional uninsured and underinsured coverages must also be offered with any liability policies that are of an excess or umbrella type and which are written to cover automobile liability. Said offers shall be in amounts not less than the liability coverage purchased by the named insured. However, because the mandatory limit of uninsured motor vehicle coverage is presumably met by the underlying auto policy, the named insured may decline any or all the coverage offered under the excess or umbrella type policy.

West Virginia Code Section 33-6-31f further provides that the mandatory offer of optional uninsured and underinsured motor vehicle coverages be offered on a form "prepared and made available" by the West Virginia Insurance Commissioner (hereinafter "excess form"). This letter is to provide the excess form for this additional offer.

Insurers should begin using the excess form immediately in compliance with the aforesaid effective date of West Virginia Code Section 33-6-31f. From a regulatory standpoint, it is understood that it will take a short period of time to implement the same but the Insurance Commission has no authority to waive or extend the effective date. If compliance necessitates contractual or rate changes such filing(s) should be made immediately and will be processed promptly. A cover letter indicating such filing is pursuant to Informational Letter 130 would assist in that process.

AMOUNT OF OFFER

As previously mentioned, newly created West Virginia Code Section 33-6-31f requires an offer of not less than the liability coverage purchased. Accordingly, the first option on each of the attached excess forms should be completed with that limit or limits. The second option is for any other amount the insurer wishes to offer, but no such alternate offer is required.

WHEN INSURER MUST PROVIDE UNINSURED AND UNDERINSURED OPTION FORMS

West Virginia Code Section 33-6-31f dictates that the excess forms prescribed by the Insurance Commissioner must be provided by the insurer to a named insured:

1. Upon application for insurance either by:
 - (a) Hand Delivery to the named insured at the time of the initial application; or
 - (b) By mailing to the named insured along with the first premium notice; and
 - (c) By electronic means, with consent of the named insured and in full compliance with UETA Section 39A-1-1 *et seq.*
2. Upon the request of any named insured for different coverage limits on or after July 13, 2001.

A mass mailing of the excess forms to existing policyholders is not required upon receipt of this Informational Letter. Further, insurers are not required to mail these excess forms to existing policyholders at renewal unless the insured has requested different limits. Neither are insurers required to mail these forms if an offer was not previously made. Insurers should begin using the excess form immediately when the enumerated circumstances set forth above occur.

PURPOSE OF FORM

The purpose of the form is to:

1. Create a uniform and effective offer of optional coverages available;
2. Inform the named insured of the rate calculation for the optional coverages including the amount of coverage and the number of vehicles;
3. Give the named insured the option to accept or reject the optional coverages;
4. Create a presumption of a knowing and intelligent selection or rejection.

PREPARATION OF FORM BY INSURERS: COMPLIANCE REQUIREMENTS

Statutory compliance in the reproduction of the forms contained herein necessary to create a presumption of an effective offer of optional coverages and a knowing and intelligent election or rejection is achieved so long as the reproduced forms provide ALL the information set forth within the Insurance Commissioner promulgated forms. It is not necessary that the reproduced forms be exact replicas of the Commissioner forms in size and shape. However, a minimum 10 point font size and a commonly used font face are required. Additionally, the portions of the Insurance Commissioner promulgated forms which appear in bold font style must likewise appear in bold on the insurer reproduced forms.

INSTRUCTIONS FOR COMPLETION OF FORM BY INSURER

The excess forms developed by the Insurance Commissioner pursuant to West Virginia Code Section 33-6-31f consist of two parts: 1) The "Important Notice" and 2) Alternative Forms A and B. These documents are attached to this letter.

The Important Notice must be provided in all circumstances listed above. The Important Notice must be combined by the insurer with either Form A or Form B, as appropriate.

Form A is to be used by insurers which offer "split limits" liability coverages. Form B is to be used by insurers which offer "single limit" liability coverage. Therefore, the form provided to a named insured would consist of either the:

Important Notice and Form A (split limits); or

Important Notice and Form B (single limit).

NOTE: If the insurer offers both split limits and single limit coverages under its umbrella or excess policy, both Form A and Form B must be provided to the named insured and the named insured must be allowed to select or reject as to each.

INSURER MUST COMPLETE UPPER PORTION OF BOTH THE UNINSURED AND UNDERINSURED PAGES OF FORM A OR FORM B

Forms A and B each address uninsured (UM) coverage on the first page and underinsured (UIM) coverage on the second page of the respective form. The insurer must complete the upper portion of Form A or Form B for the named insured notified in order to make an effective offer of optional UM and UIM coverages. As to the named insured notified, the insurer must provide: 1) The agent's name (if the insurer is a direct marketer and no agent is used, the insurer should type in "none"); 2) The policy number; 3) The policy period (e.g. 3, 6 or 12 months); and 4) The premium amount for that policy period which would apply to each optional UIM and UM coverage offered by the insurer for which the named insured is eligible.

Insurers are not required to (but may) quote premiums as to UM and UIM coverage levels higher than the liability amount. If the insurer does not wish to offer higher coverages, the insurer should type out "not available" in the "alternative offer" spaces.

The Insurance Commissioner will give notice of any changes to the excess forms provided by this letter. If you have any questions, you may direct them to any Property and Casualty Analyst in the Rates and Forms Division, telephone number (304) 558-2094. Thank you for your attention to this matter.

Jane L. Cline
Insurance Commissioner

IMPORTANT NOTICE

RETURN ATTACHED FORMS WITHIN THIRTY (30) DAYS

TO: PROPOSED POLICYHOLDER (APPLICANT)

IF YOU DO NOT RETURN THESE FORMS TO YOUR INSURER WITHIN THIRTY (30) DAYS YOU WILL BE PRESUMED TO HAVE REJECTED UNINSURED AND UNDERINSURED MOTOR VEHICLE COVERAGES.

OR

PRESENT POLICYHOLDER

IF YOU DO NOT RETURN THESE FORMS TO YOUR INSURER WITHIN THIRTY (30) DAYS YOUR COVERAGE WILL STAY THE SAME AS IT IS NOW. THIS IS AN OPPORTUNITY TO CHANGE THE COVERAGE YOU PRESENTLY HAVE.

UNinsured Motor Vehicle Coverage

The State of West Virginia **requires** that you purchase **UNinsured** motor vehicle coverage with limits not less of \$20,000 per person, \$40,000 per accident for uninsured bodily injury losses, and \$10,000 for uninsured property losses under your basic automobile coverage. In your case, you have already done so, and you have opted to purchase excess or umbrella type coverage which is also written to cover automobile liability. Therefore, the law also requires that you be given the opportunity to purchase uninsured motor vehicle coverage in an amount not less than the liability limit or limits selected on the excess or umbrella policy as well.

UNinsured Motor Vehicle Coverage may protect you and passengers in your car if you are injured in an accident that was caused by a driver who was at-fault, or an unidentified driver who was at-fault but who does not have insurance to pay for your damages.

UNDERinsured Motor Vehicle Coverage

The State of West Virginia **does not require** you to purchase any **UNDERinsured** motor vehicle coverage under your basic automobile policy. However, the law does state that you must be given the opportunity to purchase this coverage in an amount not less than your liability coverage. In your case, you have opted to purchase excess or umbrella coverage which is also written to cover automobile liability. Therefore, the law also requires that you be given the opportunity to purchase underinsured motor vehicle coverage in an amount not less than the liability limit or limits selected on the excess or umbrella policy as well.

UNDERinsured motor vehicle coverage may protect you and passengers in your car if you are involved in an accident which was caused by a driver who was at-fault but the at-fault driver's insurance policy is not sufficient to pay for your damages. In some cases the at-fault driver will not have enough liability coverage to pay for all the damages you have suffered. In order for you to protect yourself and others in your car, **UNDERinsured** motor vehicle coverage is available to you. This type of coverage may pay for the remainder of your damages up to your policy limits.

EXAMPLE:

You have purchased **UNDERinsured** motor vehicle coverage under your auto policy with limits of \$100,000 per person with a maximum of \$300,000 for any accident. You have also purchased underinsured motor vehicle coverage under your umbrella in the amount of \$1,000,000. You are in an accident where the other driver is at fault. The at-fault driver's liability policy limits are \$20,000 per person. You suffered damages of \$300,000. You receive \$20,000 from the at-fault driver's insurance. Since you still have outstanding losses of \$280,000, you can receive \$100,000 from your **UNDERinsured** motor vehicle coverage under your auto policy and \$180,000 from your underinsured motor vehicle coverage under your umbrella.

If you do not have **UNDERinsured motor vehicle coverage**, you may have found yourself in a situation where you did not have enough coverage to meet all of the losses you sustained in the accident.

OPTIONAL EXCESS UNINSURED MOTOR VEHICLE COVERAGE OFFER

Below are different limits and the _____ month premium available to you.

COMPANY MUST COMPLETE THE BLANK SPACES BELOW TO CREATE AN EFFECTIVE OFFER AND IN ORDER FOR THE CONSUMER TO EXERCISE A KNOWING AND INTELLIGENT SELECTION OR REJECTION.

AGENT			POLICY/BINDER NUMBER	
Bodily Injury Per Person	Bodily Injury Per Accident	Property Damage	Premium	
MANDATORY OFFER (No Less Than Liability Coverage)				I SELECT (Check One)
\$ _____	\$ _____	\$ _____	[A] \$ _____	
ALTERNATIVE OFFER (Any other limit available)				
\$ _____	\$ _____	\$ _____	[B] \$ _____	I SELECT [B] _____
\$ _____	\$ _____	\$ _____	[C] \$ _____	I REJECT _____ [C] _____
A named insured or applicant must select or reject coverage offered above, and complete this part of the form in his or her own handwriting.				
_____ I have read the IMPORTANT NOTICE , attached, on UNinsured motor vehicle coverage and understand how this coverage works.				
_____ I have been given the opportunity to select the limits of UNinsured motor vehicle coverage listed above and have selected the coverage that matches the box I have checked.				
_____ I have been given the opportunity to select the limits of UNinsured motor vehicle coverage listed above and have rejected the coverage.				
SIGNATURE OF A NAMED INSURED OR APPLICANT				DATE

This selection or rejection of coverage is binding on all persons covered under the policy. These limits apply until a change in the limits is requested.

OPTIONAL EXCESS UNDERINSURED MOTOR VEHICLE COVERAGE OFFER

Below are different limits and the _____ **month premium** available to you.

COMPANY MUST COMPLETE THE BLANK SPACES BELOW TO CREATE AN EFFECTIVE OFFER AND IN ORDER FOR THE CONSUMER TO EXERCISE A KNOWING AND INTELLIGENT SELECTION OR REJECTION.

AGENT _____

POLICY/BINDER NUMBER _____

Bodily Injury Per Person	Bodily Injury Per Accident	Property Damage		Premium		
MANDATORY OFFER					I SELECT	
(No Less Than Liability Coverage)					(Check One)	
\$		\$		[A]	\$	[A]
ALTERNATIVE OFFER						I SELECT
(Any other limit available)						
\$		\$		[B]	\$	[B]
						I REJECT
\$	-0-	\$	-0-	[C]	\$	-0-
<p>A named insured or applicant must select or reject coverage offered above, and complete this part of the form in his or her own handwriting.</p> <p>_____ I have read the IMPORTANT NOTICE, attached, on UNDERinsured motor vehicle coverage and understand how this coverage works.</p> <p>_____ I have been given the opportunity to select the limits of UNDERinsured motor vehicle coverage listed above and have selected the coverage that matches the box I have checked.</p> <p>_____ I have been given the opportunity to select the limits of UNDERinsured motor vehicle coverage listed above and have rejected the coverage.</p>						
SIGNATURE OF A NAMED INSURED OR APPLICANT						
DATE						

This selection or rejection of coverage is binding on all persons covered under the policy. These limits apply until a change in the limits is requested.

OPTIONAL EXCESS UNINSURED MOTOR VEHICLE COVERAGE OFFER

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AGENT POLICY/BINDER NUMBER

			Premium			
MANDATORY OFFER					I SELECT	
(No Less Than Liability Coverage)					(Check One)	
\$		[A]	\$		[A]	
ALTERNATIVE OFFER						
(Any other limit available)						I SELECT
\$		[B]	\$		[B]	
						I REJECT
\$	-0-	[C]	\$	-0-	[C]	
<p>A named insured or applicant must select or reject coverage offered above, and complete this part of the form in his or her own handwriting.</p> <p>____ I have read the IMPORTANT NOTICE, attached, on UNinsured motor vehicle coverage and understand how this coverage works.</p> <p>____ I have been given the opportunity to select the limits of UNinsured motor vehicle coverage listed above and have selected the coverage that matches the box I have checked.</p> <p>____ I have been given the opportunity to select the limits of UNinsured motor vehicle coverage listed above and have rejected the coverage.</p>						
SIGNATURE OF A NAMED INSURED OR APPLICANT						DATE

This selection or rejection of coverage is binding on all persons covered under the policy. These limits apply until a change in the limits is requested.

OPTIONAL EXCESS UNDERINSURED MOTOR VEHICLE COVERAGE OFFER

Below are different limits and the _____ month premium available to you.

COMPANY MUST COMPLETE THE BLANK SPACES BELOW TO CREATE AN EFFECTIVE OFFER AND IN ORDER FOR THE CONSUMER TO EXERCISE A KNOWING AND INTELLIGENT SELECTION OR REJECTION.

AGENT POLICY/BINDER NUMBER

			Premium			
MANDATORY OFFER					I SELECT	
(No Less Than Liability Coverage)					(Check One)	
\$		[A]	\$		[A]	
ALTERNATIVE OFFER						I SELECT
(Any other limit available)						
\$		[B]	\$		[B]	
						I REJECT
\$	-0-	[C]	\$	-0-	[C]	
<p>A named insured or applicant must select or reject coverage offered above, and complete this part of the form in his or her own handwriting.</p> <p>_____ I have read the IMPORTANT NOTICE, attached, on UNDERinsured motor vehicle coverage and understand how this coverage works.</p> <p>_____ I have been given the opportunity to select the limits of UNDERinsured motor vehicle coverage listed above and have selected the coverage that matches the box I have checked.</p> <p>_____ I have been given the opportunity to select the limits of UNDERinsured motor vehicle coverage listed above and have rejected the coverage.</p>						
SIGNATURE OF A NAMED INSURED OR APPLICANT				DATE		

This selection or rejection of coverage is binding on all persons covered under the policy. These limits apply until a change in the limits is requested.